



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

BJG
Docket No: 7071-00
16 November 2000

MA [REDACTED] LT USMC
[REDACTED]
[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

It is noted that the Commandant of the Marine Corps (CMC) has directed modification of your contested fitness report for 1 August to 4 December 1998 by removing the last sentence of the reviewing officer's comments.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 16 November 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 16 October 2000, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB in finding that complete removal of the contested fitness report was not warranted. They were unable to find that the reviewing officer incorrectly marked block 3 of his certification, which indicated that he had "sufficient" opportunity to observe you. In this regard, they noted that observation need not be direct. In view of the above, your application for relief beyond that effected by CMC has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this

regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure

7671-CC



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:
1610
MMER/PERB
16 OCT 2000

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF MAJOR
[REDACTED] SMC

Ref: (a) Major [REDACTED] DD Form 149 of 16 Jun 00
(b) MCO P1610.7D w/Ch 1-5

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 4 October 2000 to consider Major [REDACTED]'s petition contained in reference (a). Removal of the fitness report for the period 980801 to 981204 (CH) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends that the comments made by the Reviewing Officer are inaccurate, unjust, substantively inaccurate, and adverse. To support his position, the petitioner furnishes his own statement.

3. In its proceedings, the PERB concluded that, as contended, the Reviewing Officer's commentary rendered the report "adverse" as defined in chapter five of reference (b). As such, he should have been afforded an opportunity to view and respond. The Board does not, however, find this to invalidate the entire report and has directed elimination of the offending language (to wit: "Bottom line on this FITREP/reporting period is that [REDACTED] has not kept pace with peers on MOS credibility and aviation flight leadership, hence the E in Block 13g and the E/OS estimate in Block 15a is appropriate.>").

4. The Board's opinion, based on deliberation and secret ballot vote, is that the amended fitness report should remain a part of Major [REDACTED]'s official military record. The limited corrective action identified in paragraph three above is considered sufficient.

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF MAJOR
[REDACTED] SMC

5. The case is forwarded for final action.

[REDACTED]
[REDACTED]
[REDACTED]
Deputy Director
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps